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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

SHORT, PATRICIA A

ART UNIT

PAPER NUMBER

1712

8

DATE MAILED: 08/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/1778333

Applicant(s)

Patel et al

Examiner

Shont

Group Art Unit

1712

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on July 2, 2002
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-60 is/are pending in the application.
- Of the above claim(s) 4-7, 10-12, 15-17, 19-60 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-3, 8, 9, 13, 14, 18 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 4
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

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Claims 19-60 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 6.

Claims 4-7, 10-12 and 15-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 6.

Applicant's election with traverse of Group I, claims 1-18 in Paper No.6 is acknowledged. The traversal is on the ground(s) that the claims are linked by the inventive concept of the molten component. This is not found persuasive because of reasons given in the restriction requirement mailed June 5, 2002. The restriction requirement was made in compliance with PTO policy. The lack of unity requirement for purposes of restriction applies only to applications filed under 35 U.S.C. 371.

The requirement is still deemed proper and is therefore made FINAL.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3, 8, 9, 13, 14 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Use of the term "preferentially" in claim 1 is indefinite because it is not clear whether the claims require the molten component near the surface of the molten thermoplastic or if not, what limitation is imposed by the term.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Wessling. The reference teaches melt blends of a thermoplastic polymer and a polymer having a lower melt viscosity and a solubility parameter that differs by not more than 1.5. See col. 3, line 44 through col. 4, line 25, col. 5, lines 44-61 and example 5. The PCL used in example 5 inherently has a CSP of greater than 8.0 or it would have been obvious to use a polymer having a CSP of greater than 8.0 as the lower melt viscosity polymer with a polymer having a high solubility parameter in order to remain within the solubility parameter difference of not more than 1.5 when preparing the melt blends of the reference.

Claims 3, 13, 14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wessling. The reference is discussed above. Additionally, polyethylene terephthalate is taught as a thermoplastic polymer at col. 7, line 17. It would have been obvious to vary the ratio of the melt viscosity of the thermoplastic polymer and the polymer having the lower melt viscosity, use polyethylene terephthalate as the thermoplastic polymer and add conventional additives, such as an ultraviolet screen, for their art recognized purpose.

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Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Scharf. The reference teaches melt blends of polyamide and a lower melt viscosity resin that migrates to the surface under shear conditions. See col. 4, lines 57-61, col. 5, lines 1-29 and examples 7, 8, 11, 13 and 17. The polyester/polyamide used in the examples inherently as a CSP of greater than 8.0 or it would have been obvious to select a polymer known to have a solubility parameter above 8.0, such as polystyrene or polyethylene terephthalate (see col. 5), as the lower melt viscosity polymer in the melt blends of the reference.

Claims 3 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scharf. It would have been obvious to vary the ratio of the melt viscosity of the polyamide and the resin having the lower melt viscosity and add conventional additives, such as an ultraviolet screen, for their art recognized purpose.

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August 6, 2002

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